

Q-H2. Is a decision of Appeals resulting from a retained jurisdiction hearing appealable to the Tax Court or a district court?

A-H2. No. As discussed in A-H1, a taxpayer is entitled to only one CDP hearing under section 6320 with respect to the tax and tax period or periods specified in the CDP Notice. Only determinations resulting from CDP hearings are appealable to the Tax Court or a district court.

(i) *Equivalent hearing*—(1) *In general.* A taxpayer who fails to make a timely request for a CDP hearing is not entitled to a CDP hearing. Such a taxpayer may nevertheless request an administrative hearing with Appeals, which is referred to herein as an “equivalent hearing.” The equivalent hearing will be held by Appeals and generally will follow Appeals’ procedures for a CDP hearing. Appeals will not, however, issue a Notice of Determination. Under such circumstances, Appeals will issue a Decision Letter.

(2) *Questions and answers.* The questions and answers illustrate the provisions of this paragraph (i) as follows:

Q-I1. What issues will Appeals consider at an equivalent hearing?

A-I1. In an equivalent hearing, Appeals will consider the same issues that it would have considered at a CDP hearing on the same matter.

Q-I2. Are the periods of limitation under sections 6502, 6531, and 6532 suspended if the taxpayer does not timely request a CDP hearing and is subsequently given an equivalent hearing?

A-I2. No. The suspension period provided for in section 6330(e) relates only to hearings requested within the 30-day period that commences on the day after the end of the five business day period following the filing of the NFTL, that is, CDP hearings.

Q-I3. Will collection action, including the filing of additional NFTLs, be suspended if a taxpayer requests and receives an equivalent hearing?

A-I3. Collection action is not required to be suspended. Accordingly, the decision to take collection action during the pendency of an equivalent hearing will be determined on a case-by-case basis. Appeals may request the IRS office with responsibility for collecting the taxes to suspend all or some

collection action or to take other appropriate action if it determines that such action is appropriate or necessary under the circumstances.

Q-I4. What will the Decision Letter state?

A-I4. The Decision Letter will generally contain the same information as a Notice of Determination.

Q-I5. Will a taxpayer be able to obtain court review of a decision made by Appeals with respect to an equivalent hearing?

A-I5. Section 6320 does not authorize a taxpayer to appeal the decision of Appeals with respect to an equivalent hearing. A taxpayer may under certain circumstances be able to seek Tax Court review of Appeals’ denial of relief under section 6015. Such review must be sought within 90 days of the issuance of Appeals’ determination on those issues, as provided by section 6015(e).

(j) *Effective date.* This section is applicable with respect to any filing of a NFTL on or after January 19, 1999.

[T.D. 8979, 67 FR 2561, Jan. 18, 2002]

§ 301.6321-1 Lien for taxes.

If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, tangible or intangible, belonging to such person. For purposes of section 6321 and this section, the term “any tax” shall include a State individual income tax which is a “qualified tax”, as defined in paragraph (b) of § 301.6361-4. The lien attaches to all property and rights to property belonging to such person at any time during the period of the lien, including any property or rights to property acquired by such person after the lien arises. Solely for purposes of sections 6321 and 6331, any interest in restricted land held in trust by the United States for an individual non-competent Indian (and not for a tribe) shall not be deemed to be property, or a right to property, belonging to such Indian. For the method of allocating

amounts collected pursuant to a lien between the Federal Government and a State or States imposing a qualified tax with respect to which the lien attached, see paragraph (f) of § 301.6361-1. For the special lien for estate and gift taxes, see section 6324 and § 301.6324-1.

[T.D. 7577, 43 FR 59361, Dec. 20, 1978]

§ 301.6323(a)-1 Purchasers, holders of security interests, mechanic's lienors, and judgment lien creditors.

(a) *Invalidity of lien without notice.* The lien imposed by section 6321 is not valid against any purchaser (as defined in paragraph (f) of § 301.6323(h)-1), holder of a security interest (as defined in paragraph (a) of § 301.6323(h)-1), mechanic's lienor (as defined in paragraph (b) of § 301.6323(h)-1), or judgment lien creditor (as defined in paragraph (g) of § 301.6323(h)-1) until a notice of lien is filed in accordance with § 301.6323(f)-1. Except as provided by section 6323, if a person becomes a purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor after a notice of lien is filed in accordance with § 301.6323(f)-1, the interest acquired by such person is subject to the lien imposed by section 6321.

(b) *Cross references.* For provisions relating to the protection afforded a security interest arising after tax lien filing, which interest is covered by a commercial transactions financing agreement, real property construction or improvement financing agreement, or an obligatory disbursement agreement, see §§ 301.6323(c)-1, 301.6323(c)-2, and 301.6323(c)-3, respectively. For provisions relating to the protection afforded to a security interest coming into existence by virtue of disbursements, made before the 46th day after the date of tax lien filing, see § 301.6323(d)-1. For provisions relating to priority afforded to interest and certain other expenses with respect to a lien or security interest having priority over the lien imposed by section 6321, see § 301.6323(e)-1. For provisions relating to certain other interests arising after tax lien filing, see § 301.6323(b)-1.

[T.D. 7429, 41 FR 35498, Aug. 23, 1976]

§ 301.6323(b)-1 Protection for certain interests even though notice filed.

(a) *Securities*—(1) *In general.* Even though a notice of a lien imposed by section 6321 is filed in accordance with § 301.6323(f)-1, the lien is not valid with respect to a security (as defined in paragraph (d) of § 301.6323(h)-1) against—

(i) A purchaser (as defined in paragraph (f) of § 301.6323(h)-1) of the security who at the time of purchase did not have actual notice or knowledge (as defined in paragraph (a) of § 301.6323(i)-1) of the existence of the lien;

(ii) A holder of a security interest (as defined in paragraph (a) of § 301.6323(h)-1) in the security who did not have actual notice or knowledge (as defined in paragraph (a) of § 301.6323(i)-1) of the existence of the lien at the time the security interest came into existence or at the time such security interest was acquired from a previous holder for a consideration in money or money's worth; or

(iii) A transferee of an interest protected under subdivision (i) or (ii) of this subparagraph to the same extent the lien is invalid against his transferor.

For purposes of subdivision (iii) of this subparagraph, no person can improve his position with respect to the lien by reacquiring the interest from an intervening purchaser or holder of a security interest against whom the lien is invalid.

(2) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example 1. On May 1, 1969, in accordance with § 301.6323(f)-1, a notice of lien is filed with respect to A's delinquent tax liability. On May 20, 1969, A sells 100 shares of common stock in X corporation to B, who, on the date of the sale, does not have actual notice or knowledge of the existence of the lien. Because B purchased the stock without actual notice or knowledge of the lien, under subdivision (i) of subparagraph (1) of this paragraph, the stock purchased by B is not subject to the lien.

Example 2. Assume the same facts as in example 1 except that on May 30, 1969, B sells the 100 shares of common stock in X corporation to C who on May 5, 1969, had actual notice of the existence of the tax lien against A. Because the X stock when purchased by B